

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

IN RE:

**JOHN E. HIRTE, JR.
DAWN E. HIRTE**

Debtors.

**SIGNAL FINANCIAL FEDERA CREDIT
UNION,**

Plaintiff,

v.

**JOHN E. HIRTE, JR. and
DAWN E. HIRTE, Debtors,**

and

HERBERT L. BESKIN, Trustee,

Defendants.

Case No. 14-61963-RBC

Chapter 13

NOTICE OF MOTION

Signal Financial Federal Credit Union has filed papers with the United States Bankruptcy Court for the Western District of Virginia, Lynchburg Division (Bankruptcy Court), to obtain relief from the stay to repossess and sell Debtors' 2010 Chevrolet Tahoe.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult with one.)

If you do not want the Bankruptcy Court to grant the motion for relief from stay allowing Signal Financial Federal Credit Union to foreclose on certain Debtors' assets, then on before fourteen (14) days from the date of service of this motion, you or your attorney must:

Christopher S. Chipman, VSB #78358
Protas, Spivok & Collins, LLC
4330 East West Highway, Suite 900
Bethesda, MD 20814
(301) 469-3608
cchipman@psclaw.net

- File a written response explaining your position with the Court and serve a copy on the Movant. If you mail your response to the Bankruptcy Court for filing, you must mail it early enough so that the Bankruptcy Court will receive it on or before the expiration of the fourteen (14) day period.
- Attend the preliminary hearing scheduled to be held on February 9, 2017, at 9:30 AM at the U.S. Courthouse located 255 W. Main St., Rm 200, Charlottesville, VA 22902.
If no timely response has been filed opposing the relief requested, the Bankruptcy Court may grant the relief requested in the motion for relief from stay without holding a hearing.

If you or your attorney do not take these steps, the Bankruptcy Court may decide that you do not oppose the relief sought in the motion, and may enter an order granting that relief.

Movant waives the thirty (30) day limit imposed by 11 U.S.C. § 362(e) and consents to the extension of the automatic stay imposed by 11 U.S.C. § 362(a) beyond the thirty (30) day limit to the date of the above-referenced preliminary hearing or a final hearing scheduled on Movant's Motion for Relief from Stay; provided that nothing in this consent shall be deemed to consent to further extension of the automatic stay in the event that the stay shall otherwise be terminated under the provisions of 11 U.S.C. § 362(c).

Date: January 3, 2017

SIGNAL FINANCIAL FEDERAL
CREDIT UNION

By: /s/ Christopher Chipman
Christopher Chipman, VSB # 78358
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Fax: (301) 469-3601
Email: cchipman@psclaw.net
Counsel for Movant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Motion was mailed via first-class mail, postage prepaid, or served via the CM/ECF system to all parties who are on the ECF system, or who have requested electronic notices on this the 3rd day of January, 2017.

/s/ Christopher Chipman

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**JOHN E. HIRTE, JR.
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Defendants.

Case No. 14-61963-RBC

Chapter 13

MOTION FOR RELIEF FROM STAY

(2010 Chevrolet Tahoe)

To the Honorable Rebecca B. Connelly, Judge:

Signal Financial Federal Credit Union (the “Movant”), by counsel, respectfully moves that the automatic stay imposed by 11 U.S.C. § 362 be terminated or, alternatively, that said stay be modified, and for its reasons states as follows:

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JURISDICTION

1. On October 13, 2014, Debtors filed in the United States Bankruptcy Court for the Western District of Virginia, Lynchburg Division, a petition for relief under Chapter 13 of Title 11 of the United States Code, Case No. 14-61963-RBC.

2. This is a motion pursuant to Bankruptcy Rules 4001 and 9014 and 11 U.S.C. § seeking relief from the automatic stay imposed by 11 U.S.C. § 362(a).

3. The Court possesses subject matter jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

4. This is a core proceeding.

CLAIM FOR RELIEF

5. On or about March 10, 2014, Defendants, John E. Hirte, Jr. and Dawn E. Hirte, applied and were approved for a loan with Movant in the principal amount of \$30,935.87, plus interest at the rate of 5.490% per annum for the purchase of a 2010 Chevrolet Tahoe. The aforementioned loan is memorialized by a Loan and Security Agreements and Disclosure Statement (the “Loan”). A copy of the Loan is attached hereto as **Exhibit 1**.

6. In exchange for the loan of money by the Movant, Debtors granted Movant a security interest in Debtors’ 2010 Chevy Tahoe, VIN#1GNUKBE07AR276633, (the “Vehicle”), which is evidenced by the notation on the Certificate of Title for the Vehicle. A copy of the Certificate of Title for the Vehicle is attached hereto as **Exhibit 2**.

7. Debtors filed a Chapter 13 plan on April 4, 2015, which was confirmed on June 15, 2015.

8. Under the terms of the Debtors' approved Chapter 13 plan, Debtors proposed to pay all post-petition payments under the Loan directly to Plaintiff, outside of the Chapter 13 plan.

9. Debtors have been inconsistent and delinquent in making payments towards the Loan since its inception in April 2014 and are currently delinquent in post-petition payments towards the Vehicle for the months of September through December 2016 in the amount of \$1,521.00. A statement of Defendants' account is attached hereto as **Exhibit 3**.

10. Movant is currently owed \$21,368.99, for the Loan as of December 12, 2016, plus additional interest, attorneys' fees and costs incurred in filing this Motion.

11. The current trade-in value of the Vehicle according to the NADA Black Book is between \$16,475.00 and \$19,350.00. A copy of the NADA Black Book valuation is attached hereto as **Exhibit 4**.

12. Upon information and belief, the Debtors have no equity in the Vehicle, as Movant's secured interest exceeds the value of the Vehicle.

13. Upon information and belief, there is a lack of adequate protection of the Movant's interests in the Vehicle in that Debtors have not and cannot offer Movant adequate protection for the Movant's interest in the Vehicle.

14. Movant is entitled to relief from the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2) because:

- a. Defendants continued failure to make timely post-petition payments under the Loan constitutes sufficient cause;

- b. Debtors have no equity in their interest in the Vehicle and have not offered Movant adequate protection for its security interest in the same; and
- c. Debtors have no equity in their interest in the Vehicle and said interest is not needed by the Debtors for reorganization.

WHEREFORE, Movant, by counsel, respectfully requests that the automatic stay provisions of 11 U.S.C. § 362 be terminated and that it be granted relief from the stay or, in the alternative, that such stay be modified and conditioned upon the provision of adequate protection to the Movant, and for such other and further relief which as to equity may seem just.

Respectfully submitted,

SIGNAL FINANCIAL FEDERAL CREDIT
UNION

By: /s/ Christopher Chipman
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Counsel for Movant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion for Relief from Stay was mailed via first-class mail, postage prepaid, or served via the CM/ECF system to all parties who are on the ECF system, or who have requested electronic notices on this the 3rd day of January, 2017.

/s/ Christopher Chipman

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